

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Robert Moore,)	Civil Action No.: 8:09-1458-SB-BHH
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
Cpt. Chuck Fraser,)	
)	
Defendant.)	

The plaintiff brought this action seeking relief pursuant to Title 42, United States Code, Section 1983. On December 15, 2009, the defendant filed a motion for summary judgment. By order of this court filed December 16, 2009, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), the plaintiff was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Despite this explanation, the plaintiff elected not to respond to the motion.

As the plaintiff has failed to respond to the motion for summary judgment, it appears to the court that he wishes to abandon this action. Therefore,

IT IS ORDERED that the plaintiff shall have through February 19, 2010, in which to file his response to the motion for summary judgment. The plaintiff is advised that if he fails to respond, this action will be subject to dismissal for failure to prosecute pursuant to F. R. Civ. P. 41(b), and for failure to comply with this Court's orders, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir.1982). See *Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989). The dismissal will be considered an adjudication on the merits, i.e., *with prejudice*.

IT IS SO ORDERED.

s/Bruce Howe Hendricks
United States Magistrate Judge

January 25, 2010
Greenville, South Carolina